IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

OP.No. 23260 of 2002(R)

PETITIONER:

ABDUL SALAM, S/O.PARAKKOT KUNJU MOIDEEN,
AMANDUR DESOM, SREENARAYAPURAM VILLAGE,
KODUNGALLUR TALUK.

BY ADV. SRI.DINESH MATHEW J.MURICKEN
SRI.ABDUL KHADER

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
THRISSUR.

3. DEPUTY TAHSILDAR,
REVENUE RECOVERY,KODUNGALLUR.

4. YUVARAJ TIMBERS, MATHALA VILLAGE,
KODUNGALLUR TALUK, REPRESENTED BY ITS
MANAGING PARTNER BEERAN, S/O.PARAKKOT MOHAMMED.

5. BEERAN, S/O PARAKKOT MOHAMMED,
AMANDOOR DESOM, SREENARARANAPURAM VILLAGE,
KODUNGALLUR TALUK.

6. AMINA, W/O.PARAKKOT ABDULKHADER,
SREENARAYANAPURAM VILLAGE, KODUNGALLUR TALUK,
REPRESNTED BY POWER OF ATTORNEY HOLDER BEERAN,
S/O.PARAKKOT MOHAMMED, AMANDOOR DESOM,
SREENARAYANAPURAM VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.K.J.MOHAMMED ANZAR
SMT.SMITHA SUKUMAR, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 23260/2002

ORDER ON CMP NO.39760/2002 IN O.P.NO. 23260/2002

DISMISSED.

11/12/2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF EXPARTE DECREE IN OS NO. 597/91, SUB COURT, DATED 31/10/95.

P2 : COPY OF IA NO. 1488/2000 IN OS NO.597/91, SUB COURT DATED 20/06/2000.

P3 : COPY OF JUDGMENT IN OS NO.597/91 OF SUB COURT DATED 21/06/2000.

P3(a) : COPY OF DECREE IN OS NO.597/91 OF SUB COURT DATED 21/06/2000.

P4 : COPY OF NOTICE ISSUED BY 3RD RESPONDENT DATED 14/05/2002 TO THE PETITIONER.

P5 : COPY OF OBJECTION SUBMITTED BY PETITIONER TO 2ND RESPONDENT DATED 27/05/2002.

P6 : COPY OF ORDER ISSUED BY 2ND RESPONDENT DATED 04/06/2002.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 23260 of 2002

Dated, this the 11th day of December, 2007

J U D G M E N T

Challenge is against revenue recovery proceedings for recovery of court fee payable by the Petitioner. Petitioner has filed a suit as an indigent person and got ex parte decree. However, matter was later settled between parties and application filed for setting aside the said decree was allowed by the sub court. Recovery is initiated for realisation of court fee in terms of the request from the sub court in 2000. Learned counsel for the petitioner contended that petitioner is liable to pay only 1/10 of the actual court fee payable. It is not for this Court to determine the court fee payable by the parties, which has to be decided by the court adjudicating the suit. However, in this case, it is seen that the demand is only for Rs.11,760/- as against which petitioner has remitted Rs.5,800/- and the balance is only Rs. 5,960/-. If the matter is sent back to the sub court, it will involve several postings and waste of time and money for the court and the parties. In the circumstances, and since settlement entitled for reduction of court fee, this original petition is allowed in part quashing the balance demand with directions to treat the payment made by the petitioner as full and final settlement of liability.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg